

INDIA

U.S. Commission on International Religious Freedom: 2013 Annual Report

Bottom Line: Justice for past incidents of sectarian violence targeting Muslims, Christians and Sikhs has not been achieved fully. Anti-conversion laws adopted in some states have led to higher incidents of intimidation, harassment and violence against religious minority communities, particularly Christians and Muslims. In addition, rape has become a common feature of communal violence.

There has been no large-scale communal violence against religious minorities in India since 2008, and the Indian government in recent years has created special investigative and judicial structures in an effort to address previous attacks. Nevertheless, in the past year, progress in achieving justice for the victims of past incidents continued to be slow and ineffective. In addition, members of religious minority communities, including Muslims, Christians, Sikhs, and Jehovah's Witnesses, reported an increase during the reporting period of intimidation, harassment, and violence, particularly in states with anti-conversion laws. Based on these concerns, USCIRF places India on Tier 2 in 2013.

Background

The world's largest democracy with about 1.22 billion people, India has a deeply religious, pluralistic society. A country with a Hindu majority, India is estimated to have the world's third largest Muslim population and over 25 million Christians. The current Prime Minister is Sikh, the past president Muslim, and the head of the national governing alliance Catholic. Buddhist, Christian, Hindu, Muslim, Sikh, and Parsi holidays are public holidays. India has an independent judiciary and media, and a dynamic civil society. In recent years, the national government and several state governments have taken positive steps to improve religious freedom, including increasing support for governmental bodies that provide financial support for minority groups and programs.

Despite these positive factors, periodic outbreaks of large-scale communal violence against religious minorities have taken place in India. India created structures to address these issues, including Fast-Track Courts, Special Investigative Teams, and independent investigative commissions. However, records of these structures are mixed, due to limited capacity to investigate and prosecute cases, an antiquated judiciary, inconsistent use, political corruption, and religious bias, particularly at the state and local levels. It is difficult to assess whether decisions, when rendered, were fair due to a lack of publicly available data. These problems, which also plague the Indian legal system generally, hamper redress for victims of religiously-motivated crimes and create a climate of intimidation, harassment, and periodic violence against religious minorities. These incidents are more common in states with so-called "Freedom of Religion Act(s)."

Religious Freedom Conditions

Redress for Odisha (formerly Orissa) Victims: In December 2007, violence erupted between Christians and Hindus in Orissa. In August 2008, the murder of an influential Hindu political leader sparked a violent campaign targeting Christians, although Maoist extremists claimed responsibility. The State Department reported 40 deaths, 134 injuries, the destruction of churches and homes, and over 10,000 fleeing the state. Neither police nor state government immediately responded. Furthermore, state officials including local police denied access to religious leaders and aid agencies.

An estimated 3,500 complaints were documented by state police, but only 828 cases were registered with the local and state court system. Two hundred cases were dismissed due to lack of evidence, approximately 350 cases have been heard thus far, and the rest are still pending. Of the cases heard, approximately 465 individuals were convicted of crimes including murder, rape, arson, and destruction of property. However, the vast majority, approximately 400 individuals, were given minor punishments such as monetary fines. NGOs allege

that police investigations were religiously biased and intentionally defective. In addition, NGOs report that seven Christians accused of killing the Hindu leader that sparked the violence have been jailed for more than 3 ½ years, despite Maoists claiming responsibility.

Redress for Gujarat Victims: In 2002, the state of Gujarat erupted in communal violence, when, in response to a train fire allegedly set by Muslims, Hindu mobs killed 1,200-2,500 Muslims, forced 100,000 people to flee, and destroyed homes. Christians also were killed and injured, and many churches destroyed. Hundreds of court cases involving Gujarat violence remain unresolved. Also, Gujarati police closed many cases, citing witness unavailability.

In February 2012, the Gujarat High Court chastised the Gujarat government and Chief Minister Narendra Modi for “inaction and negligence” during the violence. The court ordered the government to pay compensation for property destroyed during the violence. Moreover, India’s National Human Rights Commission found evidence of premeditated killing by Hindu nationalist groups, complicity by state government officials, and police inaction.

Redress for Victims of Anti-Sikh Riots: In 1984, anti-Sikh riots erupted after the assassination of Prime Minister Indira Gandhi. Nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. For example, Resham Singh, a Sikh who was a taxi driver in 1984, alleges that he witnessed Congress Party leader Jagdish Tytler leading a mob of rioters. Singh requested in late 2011 that the Delhi court allow him to testify before the court gives its final decision which was expected sometime in March 2013, and before the CBI files its final report with the court. An official court case was filed against Tytler in mid-2012, but the date for the trial is unknown.

“Freedom of Religion Act(s)”/Anti-Conversion Laws: Five Indian states have adopted “Freedom of Religion Act(s),” and several others are considering doing so. These laws infringe on rights guaranteed by India’s constitution and international covenants. While intended to reduce forced conversions and communal violence, states with these laws have higher incidents of intimidation, harassment, and violence against religious minorities, particularly Christians. Reportedly, individuals who harass and intimidate minority groups often cite these laws. The laws require government officials to assess the sincerity of conversions and fine or imprison anyone using force, fraud, or “inducements” to convert others. In some states, individuals converting away from Hinduism, but not toward it, must give the government prior notice before converting to another religion. Proponents of the laws allege that financial, educational, and/or other service-based benefits take advantage of economically marginalized individuals. Opponents, however, note the laws’ ill-defined terminology regarding inducements or coercive acts leave certain individuals and communities open to abuse by biased officials, police, and societal actors. There are credible reports that some proselytizing groups do use tactics that can be perceived as coercive or offensive to Hindus and Hinduism, such as denigrating Hindu gods.

In August 2012, the High Court of the state of Himachal Pradesh struck down parts of its “Freedom of Religion Act” for violating the state constitution. The two offending provisions were: Rule 4 (obligation to notify the authorities within 30 days of one’s intention to convert to a religion other than Hinduism), and Rules 3 and 5 (requiring the state to investigate conversions). This action may prompt other states to review the legality of their own anti-conversion laws, or the federal government to require states to review their laws to ensure they are in line with the national constitution. However, as of this report, there are no indications that either any state government or the federal government is doing so.

Harassment and Violence against Religious Minorities: NGOs and religious communities, including Muslim, Christian, Sikh and Jehovah’s Witnesses groups, have reported during the past year an increase in religiously-motivated harassment and violence by individuals and groups in society and local police. In addition, rape is a common feature of communal violence, particularly of Muslim and Christian women, where the tactic spreads fear and humiliation on the community being targeted. Many NGOs and religious communities believe that religiously-motivated harassment and violence will increase before India’s upcoming 2014 general election, as political parties use religious divides to bolster their political platforms and energize their voting base.

Recommendations for U.S. Policy

Since 2004, the U.S. and India have pursued a strategic relationship based on shared concerns about energy, security, and the growing threat of terrorism, as well as shared values of democracy and the rule of law. The U.S. government should:

- Integrate concern for religious freedom into bilateral contacts with India, and urge the Indian government to strengthen the ability of state and central police to provide effective measures to prohibit and punish cases of religious violence and protect victims and witnesses;
- Urge India to boost training on human rights and religious freedom standards and practices for the police and judiciary, particularly in areas with a history or likelihood of communal violence;
- Urge the central Indian government and states that have adopted “Freedom of Religion Act(s)” to repeal or amend them to conform with international standards; and
- Encourage the establishment of an impartial body of interfaith religious leaders, human rights advocates, legal experts, and government officials to discuss and recommend actions to promote religious tolerance and understanding.

Please see USCIRF’s 2013 Annual Report for a more extensive review and recommendations on India.